

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOSE ANGEL GARCIA,	)	
	)	
Petitioner,	)	Case No. 1:10-cv-04-SJM-SPB
	)	
v.	)	
	)	
RAYMOND SOBINA, <i>et al.</i> ,	)	
	)	
Respondents.	)	

**MEMORANDUM ORDER**

The instant petition for writ of habeas corpus was received by the Clerk of Court on January 5, 2010 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Report and Recommendation, filed on December 13, 2011 [13], recommends that the instant petition for writ of habeas corpus be denied and that a certificate of appealability also be denied. The parties were allowed fourteen (14) days from the date of service in which to file objections. Service was made on Petitioner by certified mail at SCI-Albion, where he is currently incarcerated, and on the Respondents. No objections to the Report and Recommendation have been filed to date.

After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 9<sup>th</sup> Day of January, 2012;

IT IS ORDERED that the instant petition for writ of habeas corpus be, and hereby is, DENIED. Inasmuch as reasonable jurists would not find it debatable whether the Petitioner's claims are procedurally defaulted and/or whether the Petitioner has failed to make a substantial showing of the denial of a constitutional right, IT IS FURTHER ORDERED that no certificate of appealability shall issue.

The Report and Recommendation of Magistrate Judge Baxter, filed on December 13, 2011 [13], is adopted as the opinion of the Court.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN  
United States District Judge

Cm: All parties of record.

U.S. Magistrate Judge Susan Paradise Baxter